

209A Orders

Definition of "household members"

Aguilar v. Hernandez-Mendez

Appeals Court, May 25, 2006

The definition of "household members" as that term is defined in c. 209A, §1 includes persons with a "family-like" connection where, as in this case, the defendant and the plaintiff once resided in the same dwelling for a two year period.

The defendant (plaintiff's boyfriend's son) appealed the decision to extend the plaintiff's 209A order. The order was initially issued after the plaintiff testified that the defendant pushed her on several occasions and for more than a year had also threatened to kill her and her two children. While the defendant previously lived with the plaintiff and her boyfriend (the defendant's father) for two years, he moved out six months prior to the initial 209A hearing. He did, however, retain a set of keys which allowed him to gain access to the residence without prior arrangements with the plaintiff or his father. He also continued to receive his mail at the residence, regularly took showers there, and spent the night there on at least one occasion during that six month period. The defendant argued that "household members" should exclude individuals such as himself and the plaintiff, with whom he shared no financial or emotional connection. The defendant also testified that he never considered the residence to be his home while the plaintiff was living there.

In reaching its decision, the Appeals Court noted the history behind the 209A statute in which the legislature repeatedly expanded the definition of "household members." Where the statute originally included immediate "family" members only, it now includes persons having some "family-like" connection. By residing in the same dwelling with his father and the plaintiff, the defendant was a "household member" with the plaintiff as the term is broadly defined in c. 209A.